

Attachment K. Legal Constraints Matrix.

The matrix below documents all the possible legal constraints affecting forest management in the project boundary.

Rule/Regulation	Description	Notes
Endangered Species Act (ESA)	The Federal Endangered Species Act of 1973 is administered by the Secretaries of the Interior and Commerce through the USFWS and NMFS. The ESA was enacted to provide a means for conserving endangered and threatened species and the ecosystems upon which they depend, in order to prevent species extinctions. The ESA has three major components relevant to Green Diamond's forest management plans: • <u>Section 7</u> – Requires federal agencies to ensure, in consultation with the USFWS and the NMFS, that proposed actions are not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of designated critical habitat • <u>Section 9</u> – Prohibits “take” of listed fish and wildlife species • <u>Section 10</u> – Provides for permit issuance to non-federal entities authorizing the take of listed fish and wildlife species incidental to otherwise lawful activities	Portions of the Project Area are used or may be used by several wildlife species which are listed as threatened or endangered under the ESA, or which could be listed under the ESA in the future. Green Diamond has a USFW and NMFA approved Forest Habitat Conservation Plan (FHCP) and Aquatic Habitat Conservation Plan (AHCP) authorizing incidental take by Green Diamond of each listed Covered Species resulting from Covered Activities in the Plan Area and, upon its listing, the incidental take by Green Diamond of any currently unlisted Covered Species through the issuance of an Incidental Take Permit (ITP) under ESA Section 10(a)(1)(B). See description and notes, below, for specific details on the FHCP and AHCP.
Migratory Bird Treaty Act (MBTA)	The MBTA implements various migratory bird protection treaties and conventions between the U.S. and Canada, Japan, Mexico, and the former Soviet Union. Under the MBTA, taking, killing or possessing migratory birds is unlawful as is taking any such birds' parts, nests or eggs. The MBTA defines take more narrowly than the ESA and includes only the death or injury of an individual bird from a migratory bird species or their eggs. 50 C.F.R. §10.13 includes a list of MBTA protected birds.	Green Diamond's FHCP covers the Northern Spotted Owl (NSO), which is listed both under the ESA and the MBTA. The ESA Section 10(a)(1)(b) ITP described above also serves as an MBTA Special Permit for the NSO. See description and notes, below, for specific details on the FHCP
Bald and Golden Eagle Protection Act	Similar to the MBTA, Bald and Golden Eagle Protection Act (BGEPA) prohibits the “taking” of bald eagles, including their parts, nests, or eggs. Under BGEPA prohibited “take” includes activities that “disturb” bald or golden eagles “to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior”.	Green Diamond did not seek incidental take coverage for bald or golden eagle under the FHCP but take avoidance measures for these species are implemented through the California Forest Practices Act (Section 1.2.5). Baseline Modeling Consideration: The baseline model assumes that during harvest operations specific measures will be implemented via the California Forest Practices Act (CA FPA) to provide habitat protection pursuant to the BGESA.
National Environmental Policy Act (NEPA)	The purpose of NEPA is to ensure that federal agencies consider the environmental impact of their actions and decisions. NEPA requires that the federal government use all practicable means to protect environmental values for every federal agency action. To accomplish this goal, NEPA established a review process for analyzing the environmental impacts of proposed federal actions.	Although forest management on California's private timberlands is generally not subject to NEPA, Green Diamond's Federal HCPs (FHCP and AHCP) have been reviewed under NEPA prior to approval.
Clean Water Act (CWA)	The Clean Water Act of 1977 is the principal Federal legislation designed to protect the quality of the nation's waters. The U.S. Environmental Protection Agency (EPA) is charged with implementing most of the CWA, including Section 303, which contains provisions for establishing and meeting water quality	Green Diamond's AHCP has been recognized as satisfying Green Diamond's obligation to address water quality.

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	standards. Under the CWA, most forest management activities are considered nonpoint sources when they contribute to water pollution. Such nonpoint sources are not directly regulated under the CWA but are addressed by best management practices embodied in state law and regulations. The CWA provides for establishment of Total Maximum Daily Loads (TMDLs) where water bodies are not meeting established water quality standards. The CWA includes provisions for states to assume much of the implementation responsibility, which is largely the case in California.	Baseline Modeling Consideration: The baseline model adheres to the AHCP management guidelines and in addition, assumes that any associated forest management activities will be follow best management practices embodied in state law and regulations (i.e., CA FPA).
California Environmental Quality Act (CEQA)	Similar to NEPA, CEQA requires State agencies with discretionary permitting authority to evaluate the environmental effects of a proposed project. If one or more significant impacts are identified, a detailed EIR must be prepared. If no significant impacts are determined or if all of the significant impacts can be mitigated to levels less than significant, a negative declaration is prepared. CEQA also requires that a negative declaration or Draft EIR be prepared if a project has statewide, regional, or area-wide significance, including projects that would substantially affect sensitive habitats.	The preparation, review, and approval of Timber Harvesting Plans (THPs) pursuant to the CA FPA detail activities associated with timber harvesting on State and private lands in California. The THP process serves as the functional equivalent of an EIR under CEQA. Baseline Modeling Consideration: The baseline model assumes that all harvest activities will be associated with an approved THP.
California Forest Practice Act (FPA)	The purpose of the Forest Practice Rules is to implement the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 in a manner consistent with other laws, such as the Timberland Productivity Act of 1982, the California Environmental Quality Act (CEQA) of 1970, the Porter Cologne Water Quality Act, and the California Endangered Species Act. The goals of the FPA are to: Restore, enhance, and maintain the long-term productivity of the state's timberlands, and achieve maximum sustained production of high-quality timber products. Protect recreation, watershed, wildlife, range and forage, fisheries, regional economic vitality, employment and aesthetic enjoyment.	The FPA is implemented through regulations known as the Forest Practice Rules (FPRs), which are applied through THPs reviewed and approved by California Department of Forestry and Fire Protection (CalFire). The FPRs include standard prescriptions required in every THP, including: • Protection measures for watercourse zones (minimum buffer sizes, canopy closure requirements, and equipment exclusion). • Restrictions on construction, use, and maintenance of roads, trails, landings, and watercourse crossings. • Snag Retention requirements and measures providing for retention of late seral elements. Each THP may include site-specific language, restrictions or protection measures that are treated with the same enforcement as if they were approved regulations. The FPRs also require that THPs include a site-specific and area-specific assessment of potential individual and cumulative impacts of timber harvesting on the environment. Any significant impacts remaining after application of the standard FPRs require adoption of other site-specific measures to mitigate or avoid such impacts. Baseline Modeling Consideration: The baseline model adheres to the CA FPA and FPRs through FVS growth and yield modeling combined with spatially explicit area constraints in GIS. In addition, the baseline model accounts for any submitted, active, or approved THPs at the time of offset project commencement. See CAR1339 OPDR RP1 Appendix A Project Inventory Modeling Methodology for details related to Baseline Modeling Considerations under the CA FPA and FPRs.
Porter-Cologne Water Quality Control Act	The California Porter-Cologne Water Quality Control Act of 1969 authorizes Regional Water Control Boards (RWQCBs) to establish water quality objectives necessary for the reasonable protection of beneficial uses, including preservation and enhancement of fish, wildlife, and other aquatic resources or preserves. The objectives are stated in basin plans. The North Coast Basin Plan, which	The NCRWQCB approved a 2010 Waste Discharge Requirement (WDR) for all storm water discharges from Green Diamond's forest roads within the AHCP area based on the road management requirements of the AHCP.

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	encompasses Green Diamond's ownership, includes water quality objectives for several pollutants associated with non-point source discharges from timber operations. These include the suspended sediment load and suspended sediment discharge rate of surface waters, turbidity, and the natural receiving water temperatures of intrastate waters. The North Coast Basin Plan regulates certain practices relating to logging and related activities pursuant to the North Coast RWQCB's authority to regulate discharges of pollutants that may affect water quality. Under the FPRs, no THP may be approved if it would result in the violation of an applicable Basin Plan provision. The State Water Resources Control Board (SWRCB) and regional water boards implement the Federal CWA in California under the oversight of the EPA, Region IX. Direction for implementation of the CWA is provided by the Code of Federal Regulations (40 CFR) and by a variety of EPA guidance documents on specific subjects. The SWRCB and the North Coast RWQCB have the authority and responsibility to ensure compliance with the provisions of the CWA in the north coast region of California.	Baseline Modeling Consideration: The baseline model adheres to the AHCP management guidelines and in addition, assumes that any associated forest management activities will be follow best management practices embodied in state law and regulations (i.e., CA FPA).
California Fish and Game Code and California Endangered Species Act (CESA)	The CESA lists and protects coho salmon that inhabit Green Diamond's timberlands. In 2008, the California Department of Fish & Wildlife (DFW) made a consistency determination under the CESA, finding that Green Diamond activities under the AHCP/CCAA are also compliant with the California's coho salmon protection standards. Under the California Fish and Game Code, Green Diamond must obtain a permit from DFW for the construction, removal or replacement of stream crossing structures on forest roads.	Based on AHCP/CCAA conservation commitments, DFW provided long-term authorization for all stream crossing work on Green Diamond's California timberlands under a Master Agreement for Timber Operations approved in 2010. Baseline Modeling Consideration: The baseline model adheres to the AHCP management guidelines and in addition, assumes that any associated forest management activities will be follow best management practices embodied in state law and regulations (i.e., CA FPA).
Forest Habitat Conservation Plan (FHCP) on the California Timberlands of Green Diamond Resource Company	The intention of the FHCP is to meet all regulatory requirements necessary for the USFWS to issue to Green Diamond a Section 10 Incidental Take Permit (ITP) authorizing incidental take of the Covered Species due to Covered Activities specified in FHCP Section 2. The FHCP assessment of direct and indirect effects on Covered Species provides information and analysis for the Service to conduct internal Section 7 consultation required for FHCP evaluation.	Approved in 2019, the FHCP authorizes the incidental take by Green Diamond of each listed Covered Species resulting from Covered Activities in the Plan Area and, upon its listing, the incidental take by Green Diamond of any currently unlisted Covered Species. The FHCP expires in 2069. Baseline Modeling Consideration: The baseline model adheres to the FHCP management guidelines for the term of the plan (2019 – 2069). After 2069, when the FHCP expires, the baseline model adheres to the CA FPA and FPRs through the end of the planning projection. See CAR1339 OPDR RP1 Appendix A Project Inventory Modeling Methodology for details related to Baseline Modeling Considerations under the FHCP.
Aquatic Habitat Conservation Plan (AHCP) on the California Timberlands of Green Diamond Resource Company	The intention of the AHCP is to meet all regulatory requirements necessary for the NMFAS and USFWS to issue permits authorizing incidental take of listed species in accordance with the federal ESA and federal policies regarding conservation of unlisted species.	Approved in 2007, the AHCP authorizes the incidental take by Green Diamond of each listed Covered Species resulting from Covered Activities in the Plan Area and, upon its listing, the incidental take by Green Diamond of any currently unlisted Covered Species. The AHCP expires in 2057. Baseline Modeling Consideration: The baseline model adheres to the AHCP management guidelines until 2069 (conservative measure and consistent with the FHCP plan expiration). After 2069, the baseline model adheres to the CA FPA and FPRs.

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		See CAR1339 OPDR RP1 Appendix A Project Inventory Modeling Methodology for details related to Baseline Modeling Considerations under the AHCP.
Green Diamond's Road Management Waste Discharge Requirements (Road WDR) – GD FMP PAGE 79	Implementation of the AHCP requires an ownership wide approach to managing sediment from the Green Diamond road network. In order to accomplish this ownership management approach, Green Diamond entered into two permitting processes that provide a means to comprehensively manage roads on an ownership wide basis, rather than on a THP basis only. Green Diamond collaborated with DFW and the NCRWQCB to develop a programmatic Master Agreement for Timber Operations (MATO) and a Road Management Waste Discharge Requirements (RMWDR) that apply to the AHCP.	The MATO and RMWDR enable Green Diamond to implement the comprehensive Road Management Plan under the AHCP. There are two key components of the AHCP Road Management Plan: • Road Implementation Plan and • Road Maintenance and Inspection Program Baseline Modeling Consideration: The baseline model adheres to the AHCP management guidelines and in addition, assumes that any associated forest management activities will be follow best management practices embodied in state law and regulations (i.e., CA FPA).
Property Wide Programmatic Lake and Streambed Alteration Master Agreement for Timber Operations (MATO) – GD FMP PAGE 79	Implementation of the AHCP requires an ownership wide approach to managing sediment from the Green Diamond road network. In order to accomplish this ownership management approach, Green Diamond entered into two permitting processes that provide a means to comprehensively manage roads on an ownership wide basis, rather than on a THP basis only. Green Diamond collaborated with DFW and the NCRWQCB to develop a programmatic Master Agreement for Timber Operations (MATO) and a Road Management Waste Discharge Requirements (RMWDR) that apply to the AHCP.	The MATO and RMWDR enable Green Diamond to implement the comprehensive Road Management Plan under the AHCP. There are two key components of the AHCP Road Management Plan: • Road Implementation Plan and • Road Maintenance and Inspection Program Baseline Modeling Consideration: The baseline model adheres to the AHCP management guidelines and in addition, assumes that any associated forest management activities will be follow best management practices embodied in state law and regulations (i.e., CA FPA).
Forest Management WDR – GD FMP PAGE 80	The Forest Management Waste Discharge Requirements (FMWDR) were adopted by the NCRWQCB in October of 2012. The FMWDR applies to the AHCP covered area. The objective of the FMWDR is to provide Green Diamond with a comprehensive landscape approach to manage sediment from harvest operations. This is similar in concept to the RMWDR and MATO previously discussed. Prior to the adoption of the FMWDR, the NCRWQCB issued general WDRs for individual Green Diamond THPs.	The implementation of this landscape WDR will allow Green Diamond THPs within the AHCP covered area to operate under a consistent programmatic permit basis, rather than under separate permits issued THP by THP. Baseline Modeling Consideration: The baseline model adheres to the AHCP management guidelines and in addition, assumes that any associated forest management activities will be follow best management practices embodied in state law and regulations (i.e., CA FPA).
High Conservation Value Forests (HCVFs) – GD FMP PAGE 93	Green Diamond has conducted a High Conservation Value Forest (HCVF) area assessment and identified nine HCVF categories. The HCVF assessment incorporated elements of conservation planning projects that have been undertaken in the past two decades and site-specific information developed as part of the THP process. Specific areas have been identified and managed to protect and enhance their ecological values as part of the FHCP, the AHCP, the THP process and other conservation efforts. These areas include Conservation Easement (CE) areas, stands of old-growth forest/marbled murrelet habitat, Riparian Management Zones (RMZs), NSO nest sites and cultural archaeological sites. The HCVF assessment built on those identified conservation areas and identified grasslands, true oak stands, naturally occurring tan oak stands, and an area of unique soils and vegetation with low road density along Rattlesnake Ridge.	HCVFs within the Project Area include RMZs, NSO Core Areas, true oak stands, and mature hardwood (tanoak) stands. Baseline Modeling Consideration: Baseline model considerations for RMZs and NSO Core Areas are provided for under the FHCP, AHCP, and CA FPRs. True oak stands, and mature hardwood (tanoak) stands are considered no harvest areas in the baseline model and are spatially defined in GIS.